

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

FILED

EASCO HAND TOOLS, INC., ) Civil Action No. 2002 SEP 26 P 5-32  
ARMSTRONG TOOLS INC., KINGSLEY )  
TOOLS INC., LEA WAY HAND TOOL )  
CORPORATION, AND MATCO TOOLS )  
CORPORATION, )  
Plaintiffs, )  
vs. )  
HU, HOU-FEI, )  
a/k/a BOBBY HU, )  
Defendant. ) September 26, 2002

302CV1793

COPY 9/2

COMPLAINT FOR DECLARATORY JUDGMENT OF NONINFRINGEMENT,  
UNENFORCEABILITY AND INVALIDITY OF A PATENT

Plaintiffs, Easco Hand Tools, Inc., Armstrong Tools Inc., Kingsley Tools Inc., and Lea Way Hand Tool Corporation, doing business as Danaher Tool Group, and Matco Tools Corporation, (collectively hereafter "DTG" or "Plaintiffs"), by its attorneys, complains against Defendant Hu, Hou-fei a/k/a Bobby Hu ("Hu" or "Defendant") as follows:

PARTIES

1. Plaintiff Easco Hand Tools, Inc. is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 125 Powder Forest Drive, Simsbury, Connecticut 06070.
2. Plaintiff Armstrong Tools Inc. is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 11011 McCormick Road, Suite 150, Hunt Valley, Maryland 21031.

3. Plaintiff Kingsley Tools Inc. is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 3000 West Kingsley Road, Garland, Texas 75041.

4. Plaintiff Lea Way Hand Tool Corporation is a corporation organized and existing under the laws of Taiwan, having a principal place of business at No. 18 Hou Tswang Road, Pei Twen District, Taichung, Taiwan.

5. Plaintiff Matco Tools Corporation is a corporation organized and existing under the laws of the State of New Jersey, having a principal place of business at 4403 Allen Road, Stowe, Ohio 44224.

6. Defendant Hu is an individual and, upon information and belief, is a citizen of Taiwan and resides and/or has a place of business at No. 180, Jong Ching Road, Taichung, Taiwan.

#### JURISDICTION AND VENUE

7. This is an action for declaratory judgment of invalidity, non-infringement and unenforceability of a United States patent. Jurisdiction of this Court arises under the Declaratory Judgment Act, Title 28, United States Code, Sections 2201 and 2202, and under the laws of the United States concerning actions related to patents, Title 28, United States Code, Sections 1331 and 1338(a).

8. This Court has personal jurisdiction over the Defendant under, inter alia, Conn. Gen. Stat. § 52-59b.

9. Venue lies in this Judicial District under Title 28, United States Code, Section 1391(d) on the grounds that, upon information and belief, Defendant is an alien.

COUNT ONE (DECLARATORY JUDGMENT – NONINFRINGEMENT)

10. On September 4, 2001, U.S. Patent 6,282,992 (the '992 patent) issued to Defendant, who, on information and belief, is the owner of the '992 patent (Attachment A).

11. Plaintiffs have made, used, offered for sale, sold and/or imported in the United States certain reversible ratcheting wrenches since the issuance of the '992 patent.

12. Defendant has made written and oral assertions to Plaintiffs that manufacture, sale, offer for sale, use and/or importation of Plaintiffs' reversible ratcheting wrenches infringe the claims of the '992 patent. Based on Defendant's oral and written assertions, Plaintiffs have a reasonable apprehension of being sued for infringement of the '992 patent. Accordingly, there is a present and continuing justiciable controversy between Plaintiffs and Defendant as to Defendant's right to threaten or maintain suit for infringement of the '992 patent, and as to the validity and scope thereof, and as to whether any of Plaintiffs' reversible ratcheting wrenches infringe any valid claim thereof.

13. No valid claim of the '992 patent is infringed by Plaintiffs' reversible ratcheting wrenches, either literally or under the Doctrine of Equivalents.

14. By reason of the proceedings in the U.S. Patent and Trademark Office during the prosecution of the application that matured into the '992 patent as shown by the file wrapper thereof, Defendant is estopped to claim for the '992 patent a construction that would cause the '992 patent to cover or include manufacture, use, sale, offer for sale or importation of Plaintiffs' reversible ratcheting wrench.

COUNT TWO (DECLARATORY JUDGMENT - PATENT INVALIDITY)

15. Plaintiffs incorporate by reference paragraphs 10-14 of this Complaint into Count Two as if fully set forth herein.

16. The claims of the '992 patent are invalid pursuant to one or more of the provisions of 35 U.S.C. §§102, 103 and/or 112.

COUNT THREE (DECLARATORY JUDGMENT - PATENT UNENFORCEABILITY)

17. Plaintiffs incorporate by reference paragraphs 10-16 of this Complaint into Count Three as if fully set forth herein.

18. The claims of the '992 patent are unenforceable, in that defendant, and/or his attorney prosecuting the application that matured into the '992 patent, committed inequitable conduct before the U.S. Patent and Trademark Office in obtaining the '992 patent, in that Defendant and/or his attorney (1) knew of U.S. Patent 6,134,990, U.S. Patent 5,533,427, U.S. Patent 5,636,557, and/or the Gear Wrench non-reversible ratcheting wrench sold by one or more of Plaintiffs and (2) failed to disclose such prior art to the United States Patent and Trademark Office with, upon information and belief, the intent to deceive the Patent and Trademark Office. The withheld prior art was material to the examination of the application and was not cumulative.

PRAAYER FOR RELIEF

Wherefore, Plaintiffs pray:

A. For entry of judgment that United States Patent 6,282,992 and the claims thereof are invalid and unenforceable; that the manufacture, use, sale, offer for sale and importation of Plaintiffs' reversible ratcheting wrenches does not infringe, and has not at any time infringed, any claim of the '992 patent; and that Defendant is without any right or authority to threaten or to maintain suit against Plaintiffs or its customers for alleged infringement of the '992 patent.

B. For entry of an injunction enjoining Defendant Hu, his agents, employees, assignees and attorneys, and those persons in active concert or participation with him, from initiating infringement litigation and from threatening Plaintiffs, any of its related companies, any of its prospective or present customers, dealers, agents, employees, vendors, suppliers, or owners or users of Plaintiffs' reversible ratcheting wrenches with infringement litigation, and from charging any of them either verbally or in writing with infringement of the '992 patent, because of the manufacture, use, offer for sale, sale or importation of Plaintiffs' reversible ratcheting wrenches;

C. Entry of judgment for costs and reasonable attorneys' fees incurred by Plaintiffs.

D. For such other further relief as the Court may deem just and proper.

REQUEST FOR JURY TRIAL

The Plaintiffs request a trial by jury.

EASCO HAND TOOLS, INC., ARMSTRONG  
TOOLS INC., KINGSLEY TOOLS INC., LEA  
WAY HAND TOOL CORPORATION, AND  
MATCO TOOLS CORPORATION

By 

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Post Office Box 11070 (29211)

Columbia, SC 29201

(803) 799-2000

# United States District Court

DISTRICT OF

Connecticut

Easco Hand Tools, Inc., Armstrong Tools, Inc.,  
Kingsley Tools Inc., Lea Way Hand Tool  
Corporation, and Matco Tools Corporation  
V.  
Hu, Hou-Fei, a/k/a Bobby Hu

## SUMMONS IN A CIVIL CASE

CASE NUMBER:

302CV1723-<sup>1</sup> ~~sub~~

TO: (Name and address of defendant)

Hu, Hou-Fei a/k/a Bobby Hu  
180, Jong Ching Road  
Taichung, Taiwan

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Francis H. Morrison, III  
Matthew J. Becker  
Day, Berry & Howard, LLP  
CityPlace I, Hartford, CT 06103-3499

an answer to the complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

CLERK

Barbara B. Foley  
DEPUTY CLERK

September 26, 2002

DATE

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

## (a) PLAINTIFFS

Easco Hand Tools, Inc., Armstrong Tools, Inc., Kingsley Tools, Inc.,  
Lea Way Hand Tool Corporation and Matco Tools Corporation

## DEFENDANTS

Hu, Hou-Fei a/k/a Bobby Hu

REC'D SEP 26 P 3 22

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Hartford  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT   
(IN U.S. PLAINTIFF CASES ONLY)  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(C) ATTORNEYS (FIRM NAME, ADDRESS AND TELEPHONE NUMBER)  
Day, Berry & Howard LLP  
CityPlace I  
185 Asylum Street  
Hartford, CT 06103 Phone 860 275-0100

ATTORNEYS (IF KNOWN)

## II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

1 U.S. Government Plaintiff  3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant  4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

Citizen of This State	<input type="checkbox"/> PTF <input type="checkbox"/> DEF	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> PTF <input type="checkbox"/> DEF
Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

## IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 180 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 310 Airplanes <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 220 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 562 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 268 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure Of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Reps. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
		<input type="checkbox"/> PERSONAL PROPERTY	<input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 480 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
		<input type="checkbox"/> 270 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410
		<input type="checkbox"/> 265 Property Damage Product Liability	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 851 HIA (1339ff) <input type="checkbox"/> 852 Black Lung (923) <input type="checkbox"/> 853 DWCA/DIVW (405(p)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 885 RSI (405(g))
REAL PROPERTY	CIVIL RIGHTS	HABEAS CORPUS	<input type="checkbox"/> FEDERAL TAX SUITS	<input type="checkbox"/> 851 Agricultural Acts <input type="checkbox"/> 852 Economic Stabilization Act <input type="checkbox"/> 853 Environmental Matters <input type="checkbox"/> 854 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 800 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Equipment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Torts Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voltha <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 870 Taxee (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS — Third Party 26 USC 7609	

## V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

1 Original  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 another district (specify)  6 Multidistrict Litigation  7 Magistrate Judgment

## VI. CAUSE OF ACTION

(CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.  
DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 U.S.C. §2201 and 2202; Declaratory judgment of noninfringement of patent, patent invalidity, and patent unenforceability

VII. REQUESTED IN COMPLAINT:  CHECK IF THIS IS A CLASS ACTION  
COMPLAINT:  UNDER F.R.C.P. 23 DEMAND \$Declaratory and Injunctive Relief CHECK YES only if demanded in complaint

JURY DEMAND:  YES  NO

VIII. RELATED CASE(S) (See instructions)  
IF ANY JUDGE DOCKET NUMBER

ATE

September 26, 2002

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

141 CHURCH STREET NEW HAVEN, CT 06510 (203) 773-2140	450 MAIN STREET HARTFORD, CT 06103 (860) 240-3200	915 LAFAYETTE BLVD BRIDGEPORT, CT 06604 (203) 579-5861	14 COTTAGE PLACE WATERBURY, CT 06702 (203) 597-6311
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NOTICE TO COUNSEL AND PRO SE PARTIES

THE ATTACHED CASE HAS BEEN ASSIGNED TO DISTRICT JUDGE STEFAN R. UNDERHILL WHO SITS IN BRIDGEPORT. COUNSEL AND PRO SE PARTIES SHOULD FILE ALL FUTURE PLEADINGS OR DOCUMENTS IN THIS MATTER WITH THE CLERK'S OFFICE IN BRIDGEPORT. ANY ATTEMPT TO FILE PLEADINGS OR OTHER DOCUMENTS RELATED TO THIS ACTION IN ANY OF THE OTHER SEATS OF COURT WILL RESULT IN THOSE PLEADINGS OR DOCUMENTS BEING REFUSED AT THE COURT OR BEING RETURNED TO YOUR OFFICE. SEE D.CONN. L.CIV. R. 7(a).

COUNSEL AND PRO SE PARTIES ARE REQUIRED TO BECOME FAMILIAR WITH AND ABIDE BY THE FEDERAL RULES OF CIVIL PROCEDURE, THE LOCAL RULES OF CIVIL PROCEDURE FOR THE DISTRICT OF CONNECTICUT AND STANDING ORDERS REGARDING SCHEDULING IN CIVIL CASES AND THE FILING OF TRIAL MEMORANDA.

COUNSEL AND PRO SE PARTIES ARE HEREBY NOTIFIED THAT FAILURE TO FILE AND SERVE A MEMORANDUM IN OPPOSITION TO A MOTION, WITHIN 21 DAYS AFTER THE MOTION IS FILED, MAY BE DEEMED SUFFICIENT CAUSE TO GRANT THE MOTION. FAILURE TO FILE AND SERVE A MEMORANDUM IN OPPOSITION TO A MOTION TO DISMISS WITHIN 21 DAYS AFTER THE MOTION IS FILED MAY BE DEEMED SUFFICIENT CAUSE TO GRANT THE MOTION, EXCEPT WHERE THE PLEADINGS PROVIDE SUFFICIENT GROUNDS TO DENY THE MOTION. SEE D.CONN. L.CIV. R. 9(a)1

COUNSEL AND PRO SE PARTIES ARE FURTHER NOTIFIED THAT THEY ARE REQUIRED TO COMPLY WITH REQUIREMENTS RELATING TO MOTIONS FOR SUMMARY JUDGMENT AS SET FORTH IN FED. R. CIV. P. 56 AND D.CONN. L.CIV. R. 9(C). A PARTY MAY MOVE FOR SUMMARY JUDGMENT WHEN THAT PARTY BELIEVES THERE IS NO GENUINE ISSUE OF MATERIAL FACT REQUIRING TRIAL AND THE PARTY IS ENTITLED TO JUDGMENT AS A MATTER OF LAW. THE MOTION MAY BE DIRECTED TOWARD ALL OR PART OF A CLAIM OR DEFENSE AND IT MAY BE MADE ON THE BASIS OF THE PLEADINGS OR OTHER PORTIONS OF THE RECORD IN THE CASE OR IT MAY BE SUPPORTED BY AFFIDAVITS AND OTHER MATERIALS OUTSIDE THE PLEADINGS.

WHEN A PARTY SEEKING SUMMARY JUDGMENT (THE "MOVING PARTY") FILES A SUPPORTING AFFIDAVIT, THE PARTY OPPOSING SUMMARY JUDGMENT MUST FILE AN AFFIDAVIT, OR OTHER DOCUMENTARY EVIDENCE, CONTRADICTING THE MOVING PARTY'S SUBMISSIONS TO DEMONSTRATE THAT THERE ARE FACTUAL ISSUES REQUIRING A TRIAL. FACTS ASSERTED IN THE AFFIDAVIT(S) OF THE MOVING PARTY WILL BE TAKEN AS TRUE IF NOT controverted BY COUNTER-AFFIDAVITS OR OTHER DOCUMENTARY EVIDENCE.

LOCAL CIVIL RULE 9(C) REQUIRES THE PARTY SEEKING SUMMARY JUDGMENT TO FILE A DOCUMENT ENTITLED "LOCAL RULE 9(C)1 STATEMENT," WHICH SETS FORTH IN SEPARATELY NUMBERED PARAGRAPHS A CONCISE STATEMENT OF EACH MATERIAL FACT AS TO WHICH THE MOVING PARTY CONTENDS THERE IS NO GENUINE ISSUE TO BE TRIED. THE MATERIAL FACTS SET FORTH IN

(OVER)

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

302 CV 17239

SRM

ORDER ON PRETRIAL DEADLINES

Unless otherwise ordered by the Judge to whom this case is assigned, the parties shall adhere to the following deadlines:

(a) In accordance with Local Civil Rule 38, within thirty days of the appearance of a defendant, the parties shall confer for the purposes described in Fed. R. Civ. P. 26(f). Within ten days thereafter, the parties shall jointly file a report on Form 26(f), which appears in the Appendix to the Local Civil Rules.

(b) All motions relating to joinder of parties, claims or remedies, class certification, and amendment of the pleadings shall be filed within 60 days after filing of the complaint, the filing of a petition for removal, or the transfer of an action from another District.

(c) All motions to dismiss based on the pleadings shall be filed within 90 days after the filing of the complaint, the filing of a petition for removal, or the transfer of an action from another District. The filing of a motion to dismiss shall not result in the stay of discovery or extend the time for completing discovery.

(d) Formal discovery pursuant to the Federal Rules of Civil Procedure may not commence until the parties have conferred as required by Fed. R. Civ. P. 26(f) and Local Civil Rule 38 but parties may commence formal discovery immediately thereafter without waiting entry of a scheduling order pursuant to Fed. R. Civ. P. 16(b). Informal discovery by agreement of the parties is encouraged and may commence at anytime. Unless otherwise ordered, discovery shall be completed within 6 months after the filing of the complaint, the filing of a petition for removal, or the date of transfer of an action from another District.

(e) Unless otherwise ordered, all motions for summary judgment shall be filed within 7 months after the filing of the complaint, the filing of a petition for removal, or the date of transfer from another District.

Unless specifically ordered by the Court, an extension of time to comply with any one of the time limits in this Order does not automatically extend the time to comply with subsequent time limits.

Counsel for plaintiff or removing defendant shall be responsible for serving a copy of this order on all parties to the action.

By Order of the Court  
Kevin F. Rowe, Clerk

This Order is issued pursuant to the Standing Order on Scheduling In Civil Cases, which appears in the Appendix to the Local Civil Rules

BEST AVAILABLE COPY  
UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

ORDER RE: DISCLOSURE STATEMENT

ANY NONGOVERNMENTAL CORPORATE PARTY TO AN ACTION IN THIS COURT SHALL FILE A STATEMENT IDENTIFYING ALL ITS PARENT CORPORATIONS AND LISTING ANY PUBLICLY HELD COMPANY THAT OWNS 10% OR MORE OF THE PARTY'S STOCK. A PARTY SHALL FILE THE STATEMENT WITH ITS INITIAL PLEADING FILED IN THE COURT AND SHALL SUPPLEMENT THE STATEMENT WITHIN A REASONABLE TIME OF ANY CHANGE IN THE INFORMATION. COUNSEL SHALL APPEND A CERTIFICATE OF SERVICE TO THE STATEMENT IN COMPLIANCE WITH LOCAL RULE 7(e).

COUNSEL FOR PLAINTIFF OR REMOVING DEFENDANT SHALL BE RESPONSIBLE FOR SERVING A COPY OF THIS ORDER UPON ALL PARTIES TO THE ACTION.

BY ORDER OF THE COURT  
KEVIN F. ROWE, CLERK

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

**BEST AVAILABLE COPY**  
**NOTICE TO COUNSEL**  
**FOR CASES REMOVED FROM SUPERIOR COURT**

**STANDING ORDER**

All parties removing actions to this Court pursuant to 28 U.S.C. § 1441 shall, no later than five (5) days after filing a notice of removal, file and serve a signed statement that sets forth the following information:

1. The date on which each defendant first received a copy of the summons and complaint in the state court action.
2. The date on which each defendant was served with a copy of the summons and complaint, if any of those dates are different from the dates set forth in item 1.
3. In diversity cases, whether any defendant who has been served is a citizen of Connecticut.
4. If removal takes place more than thirty (30) days after any defendant first received a copy of the summons and complaint, the reasons why removal has taken place at this time.
5. The name of any defendant served prior to the filing of the notice of removal who has not formally joined in the notice of removal and the reasons why any such defendant did not join in the notice of removal.

At the time a removal notice is filed with the Clerk of this Court, the removing party shall also file with the Clerk a separate notice, entitled "Notice of Pending Motions," specifying any pending motions that require action by a Judge of this Court and attaching a true and complete copy of each such motion and all supporting and opposition papers.

The removing party shall list in its certificate of service immediately below the name and address of counsel the name of the party or parties represented by said counsel and all parties appearing *pro se*.

**NOTICE TO COUNSEL RE LOCAL RULE 7(B)**

To ensure that our records are complete and to ensure that you receive notice of hearings and any court rulings, **PLEASE FILE AN APPEARANCE** with this office in accordance with Local Rule 7(b) of the Local Rules of Civil Procedure for the District of Connecticut.

Counsel for the removing defendant(s) is responsible for immediately serving a copy of this notice on all counsel of record and all unrepresented parties at their last known address.

KEVIN R. ROWE,  
CLERK OF COURT

rev. 5/1/00

# United States District Court

DISTRICT OF Connecticut

Easco Hand Tools, Inc., Armstrong Tools, Inc.,  
Kingsley Tools Inc., Lea Way Hand Tool  
Corporation, and Matco Tools Corporation

v.

Hu, Hou-Fei, a/k/a Bobby Hu

SUMMONS IN A CIVIL CASE

**302CV1747AV**

CASE NUMBER:

**BEST AVAILABLE COPY**

TO: (Name and address of defendant)

Hu, Hou-Fei a/k/a Bobby Hu  
180, Jong Ching Road  
Taichung, Taiwan

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Francis H. Morrison, III  
Matthew J. Becker  
Day, Berry & Howard, LLP  
CityPlace I, Hartford, CT 06103-3499

an answer to the complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

KEVIN E. ROWE

CLERK

B. D'Onofrio  
(By) DEPUTY CLERK

October 1, 2002

DATE

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

EASCO HAND TOOLS, INC., : CIVIL ACTION NO. 3:02 CV1747 (AVC)  
ARMSTRONG TOOLS, INC., :  
KINGSLEY TOOLS, INC., LEA WAY :  
HAND TOOL CORPORATION and :  
MATCO TOOLS CORPORATION :  
Plaintiffs, :  
vs. :  
HU, HOU-FEI a/k/a BOBBY HU :  
Defendant. : SEPTEMBER 19, 2003

AMENDED COMPLAINT FOR DECLARATORY JUDGMENT OF  
NONINFRINGEMENT, UNENFORCEABILITY AND INVALIDITY OF A PATENT

Plaintiffs, Easco Hand Tools, Inc., Armstrong Tools Inc., Kingsley Tools Inc., and Lea Way Hand Tool Corporation, doing business as Danaher Tool Group, and Matco Tools Corporation, (collectively "Easco" or the "Plaintiffs"), by its attorneys, complains against Defendant Hu, Hou-Fei a/k/a Bobby Hu ("Hu" or "Defendant") as follows:

PARTIES

1. Plaintiff Easco Hand Tools, Inc. is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 125 Powder Forest Drive, Simsbury, Connecticut 06070.
2. Plaintiff Armstrong Tools Inc. is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 11011 McCormick Road, Suite 150, Hunt Valley, Maryland 21031.

3. Plaintiff Kingsley Tools Inc. is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 3000 West Kingsley Road, Garland, Texas 75041.

4. Plaintiff Lea Way Hand Tool Corporation is a corporation organized and existing under the laws of Taiwan, having a principal place of business at No. 18 Hou Tswang Road, Pei Twen District, Taichung, Taiwan.

5. Plaintiff Matco Tools Corporation is a corporation organized and existing under the laws of the State of New Jersey, having a principal place of business at 4403 Allen Road, Stowe, Ohio 44224.

6. Defendant Hu is an individual and, upon information and belief, is a citizen of Taiwan and resides and/or has a place of business at No. 180, Jong Ching Road, Taichung, Taiwan.

#### JURISDICTION AND VENUE

7. This is an action for declaratory judgment of invalidity and non-infringement of a United States patent. Jurisdiction of this Court arises under the Declaratory Judgment Act, Title 28, United States Code, Sections 2201 and 2202, and under the laws of the United States concerning actions related to patents, Title 28, United States Code, Sections 1331 and 1338(a).

8. This Court has personal jurisdiction over the Defendant under, inter alia, Conn. Gen. Stat. § 52-59b.

9. Venue lies in this Judicial District under Title 28, United States Code, Section 1391(d) on the grounds that, upon information and belief, Defendant is an alien.

COUNT ONE (DECLARATORY JUDGMENT – NONINFRINGEMENT)

10. On October 1, 2002, U.S. Patent No. 6,457,387 (the '387 patent) issued to Defendant, who, on information and belief, is the owner of the '387 patent (Attachment A).

11. Plaintiffs have made, used, offered for sale, sold and/or imported in the United States certain reversible ratcheting wrenches since the issuance of the '387 patent.

12. Defendant has made written and oral assertions to Plaintiffs that manufacture, sale, offer for sale, use and/or importation of Plaintiffs' reversible ratcheting wrenches would infringe the claims of the '387 patent when it issued. Based on Defendant's oral and written assertions, Plaintiffs have a reasonable apprehension of being sued for infringement of the '387 patent. Accordingly, there is a present and continuing justiciable controversy between Plaintiffs and Defendant as to Defendant's right to threaten or maintain suit for infringement of the '387 patent, and as to the validity and scope thereof, and as to whether any of Plaintiffs' reversible ratcheting wrenches infringe any valid claim thereof.

13. No valid claim of the '387 patent is infringed by Plaintiffs' reversible ratcheting wrenches, either literally or under the Doctrine of Equivalents.

COUNT TWO (DECLARATORY JUDGMENT – PATENT INVALIDITY)

14. Plaintiffs incorporate by reference paragraphs 10-13 of this Complaint into Count Two as if fully set forth herein.

15. The claims of the '387 patent are invalid pursuant to one or more of the provisions of 35 U.S.C. §§102, 103 and/or 112.

COUNT THREE (DECLARATORY JUDGMENT – PATENT UNENFORCEABILITY)

16. Plaintiffs incorporate by reference paragraphs 10-15 of this Complaint into Count Three as if fully set forth herein.

17. The claims of the '387 patent are unenforceable, in that defendant, and/or his attorney prosecuting the application that matured into the '387 patent, committed inequitable conduct before the U.S. Patent and Trademark Office in obtaining the '387 patent, in that Defendant and/or his attorney (1) knew of Republic of China Patent Papers, Public Notice No. 212343, Application Case No. 82207518, Republic of China Patent Papers, Public Notice No. 130638, Application Case No. 77209984 and Republic of China Patent Papers, Public Notice No. 310649, Application Case No. 86200529 and (2) failed to disclose such prior art to the United States Patent and Trademark Office with, upon information and belief, the intent to deceive the Patent and Trademark Office. The withheld prior art was material to the examination of the application and was not cumulative.

PRAYER FOR RELIEF

Wherefore, Plaintiffs pray:

A. For entry of judgment that United States Patent 6,457,387 and the claims thereof are invalid and unenforceable; that the manufacture, use, sale, offer for sale and importation of Plaintiffs' reversible ratcheting wrenches does not infringe, and has not at any time infringed, any claim of the '387 patent; and that Defendant is without any right or authority to threaten or to maintain suit against Plaintiffs or its customers for alleged infringement of the '387 patent.

B. For entry of an injunction enjoining Defendant Hu, his agents, employees, assignees and attorneys, and those persons in active concert or participation with him, from initiating infringement litigation and from threatening Plaintiffs, any of its related companies, any of its prospective or present customers, dealers, agents, employees, vendors, suppliers, or owners or users of Plaintiffs' reversible ratcheting wrenches with infringement litigation, and from charging any of them either verbally or in writing with infringement of the '387 patent, because of the manufacture, use, offer for sale, sale or importation of Plaintiffs' reversible ratcheting wrenches;

C. Entry of judgment for costs and reasonable attorneys' fees incurred by Plaintiffs.

D. For such other further relief as the Court may deem just and proper.

REQUEST FOR JURY TRIAL

The Plaintiffs request a trial by jury.

EASCO HAND TOOLS, INC., ARMSTRONG  
TOOLS INC., KINGSLEY TOOLS INC., LEA  
WAY HAND TOOL CORPORATION, AND  
MATCO TOOLS CORPORATION

By

  
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Their Attorneys

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

EASCO HAND TOOLS, INC., )  
ARMSTRONG TOOLS INC., KINGSLEY )  
TOOLS INC., LEA WAY HAND TOOL ) Civil Action No. 3:02 CV 1723 (AVC)  
CORPORATION, AND MATCO TOOLS ) Consolidated with Civil Action No. 3:02  
CORPORATION, ) CV 1747 (AVC)  
 )  
Plaintiffs, )  
 )  
vs. ) April 21, 2004  
 )  
HU, HOU-FEI, a/k/a BOBBY HU, )  
 )  
Defendant. )

COPY

**PLAINTIFFS' SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 3  
OF DEFENDANT'S FIRST SET OF INTERROGATORIES**

Pursuant to the Court's December 4, 2003 Scheduling Order, plaintiffs, Easco Hand Tools Inc., Kingsley Tools Inc., Lea Way Hand Tool Corporation and Matco Tools Corporation ("Easco") submit their statement of facts and information supporting their invalidity position with respect to member case Civil Action No. 3:02 1747(AVC). Plaintiffs have previously submitted an Assented to Motion for Extension of Time with respect to member case Civil Action No. 3:02 1723(AVC) seeking to postpone the disclosure deadline in that action until March 1, 2004.

**INTERROGATORY NO. 3**

Please specify the reasons why you contend that the claims of the Patent in Question are invalid (including the identity by section number and subsection identifier of each ground specified in 35 United States Code with which you allege Hu has failed to comply, if applicable) and identify all facts supporting such reason(s), including but not limited to an explanation of how each allegedly invalidating reference or prior art use or knowledge qualifies as prior art; an element by element comparison showing the manner in which each element of the claims of the Patent in Question is found in the prior art upon which Plaintiffs rely for their invalidity

contention; all evidence supporting Plaintiffs' contention that any or all of the claims of the Patent in Question would have been obvious; and a specific recitation of claim limitations of the Patent in Question that are alleged to be ambiguous, not enabled, or not adequately described.

**PREVIOUS RESPONSE TO INTERROGATORY NO. 3**

Plaintiffs response is made without in any way waiving or intending to waive, but, rather intending to preserve, preserving, and specifically incorporating here, all objections made by Plaintiffs in previous responses to Defendant's interrogatories.

Easco further reserves the right to amend and/or supplement the following response pursuant to Fed. R. Civ. P. 26(e) and 33, to the extent that additional invalidating prior art is discovered, or to the extent that discovery in this case reveals additional relevant facts.

Easco has endeavored to distinguish between prior art that invalidates the patent-in-suit under 35 U.S.C. § 102, and that which invalidates the patent-in-suit under 35 U.S.C. § 103. This categorization, however, is necessarily preliminary, because whether a reference anticipates a claim or renders it obvious necessarily depends on the construction of that claim. Because the claim construction is not yet completed, Easco cannot provide a final position at this time. Accordingly, Easco reserves the right to amend and/or supplement this response based on the Court's claim construction in this case.

More specifically, certain prior art may not anticipate the patent-in-suit under the proper construction of the patent-in-suit; however, such art would, alone or in combination, invalidate the asserted claims of the patent-in-suit if such claims were construed according to certain overly broad claim constructions Hu has proposed. Similarly, the claim construction positions Hu discloses with respect to other elements of the patent-in-suit on February 17 are likely to impact Easco's determination of relevant prior art and invalidating prior art. Easco further reserves the right to supplement its response after reviewing Hu's proposed constructions.

Certain aspects of patent invalidity are, as a matter of law, to be determined from the perspective of a person of ordinary skill in the art. For this reason, a determination of invalidity, especially pursuant to 35 U.S.C. § 103, commonly involves expert witness testimony. Easco reserves the right to supplement and/or amend this response based on the parties' expert witness disclosures and discovery in this case.

The facts and information set forth below are reflective of the range of potential claim constructions proposed by the parties or expected to be proposed by Hu. In discussing such facts and information, Plaintiffs neither admit nor necessarily agree that a particular prior art reference is invalidating under a proper claim construction.

Subject to and without waiving the foregoing objections, Plaintiffs provide the following facts and information, supporting their invalidity position with respect to U.S. Patent No. 6,457,387.

#### 35 U.S.C. §102

The following prior art renders one or more of the asserted claims invalid under 35 U.S.C. §102:

1. U.S. Patent No. 1,090,578, Ratchet Mechanism. U. S. Patent No. 1,090,578 ('578) discloses a double center pawl, either end of which having a set of teeth adapted to be brought into position to engage with a gear wheel to effect motion in opposite directions. Each set of teeth is arranged in the arc of a circle, the radius of which is the same as that of the ratchet wheel so that when either set of teeth are in engagement with the ratchet wheel, said teeth accurately fit one another. The double center pawl is located in a slot and is restricted in its movement to a path tangential to the gear wheel by a flat face containing a straight wall such that

when the pawl is in action it wedges itself between the gear wheel and the wall. A manual means of changing the position of the pawl between a first and second position is also disclosed.

2. U.S. Patent No. 2,701,977, Reversible Ratchet Wrench. U.S. Patent No.

2,701,977 ('977) discloses a double center pawl containing two axially or laterally spaced shoulder portions which are toothed for selective complementary meshing with a gear wheel to effect motion in opposite directions. The double center pawl is located in an aperture. The tendency of the double center pawl to become wedged in an inwardly tapered space defined between the gear wheel and an oppositely disposed wall portion of the aperture improves its ability to completely engage with the gear wheel. A manual means of changing the position of the pawl between a first and second position is also disclosed. The only embodiment pictured in the '977 patent is a socket wrench.

3. U.S. Patent No. 3,866,492, Torque Multiplier. U.S. Patent No. 3,866,492 ('492)

discloses a planetary cage assembly, formed of a work receiving member, rotatably mounted in a through opening in the head of a wrench. The cage contains an outer periphery of teeth which extends into an intermediate cavity. Pivotaly mounted in the intermediate cavity is a double center pawl with opposite wing portions of teeth which will selectively mesh into engagement with the planetary cage. The '492 patent also discloses a shaft means that can be provided with means for engagement with sockets.

4. Republic of China Patent Papers, Application Case No. 86200529, Blocking Teeth Improvement Structure of a Ratchet Wheel Wrench. Republic of China Patent Papers, Application Case No. 86200529 (86200529) discloses a double center pawl, the left and right sides of which are set up with one set of the same number of double-top teeth. The pawl teeth engage with the teeth of a gear wheel through the pivoting action of the pawl around a central

axis. The 86200529 patent discloses a reversing mechanism, in the form of a plate that pivots about an axis. The pivotable motion of the reversing mechanism is transmitted to the pawl, causing the pawl to change position. A means by which the user can manually move the reversing mechanism with a thumb is also disclosed.

5. U.S. Patent No. 1,680,515, Ratchet Mechanism For Lifting Jacks. U.S. Patent No. 1,680,515 ('515) discloses a double center pawl pivotally mounted in a chamber and having a plurality of teeth at opposite ends adapted to alternatively engage the teeth of a gear wheel. One set of the pawl teeth effect motion in one direction and the other set of teeth effects motion in the reverse direction. The pawl teeth are in a curved plane, the radius of which is the same as that of the gear wheel so that the pawl teeth at one end or the other simultaneously engage the gear wheel. The position of the pawl is changed by the transmission of pivotable motion from a winged turning member to the pawl.

6. U.S. Patent No. 3,342,229, Ratchet Handle Screwdriver. U.S. Patent No. 3,342,229 ('229) discloses a tool shank rotatably received in a pawl means and a bushing. The tool shank is provided with a gear wheel integrally formed therewith or rigidly secured thereto. The pawl means acting upon the gear wheel includes a bifurcated ratchet pawl mounted for eccentric selective movement between a first and second position, whereby in the first extreme position the tool shank is driven in one direction and in the opposite direction when the ratchet pawl is in the second extreme position. The bifurcated ratchet pawl is secured for limited slidable movement. However, the pawl is permitted, by virtue of a means of resilient retention to oscillate axially a sufficient distance during use. The '229 patent discloses a reversing mechanism which transmits pivotable movement to the pawl, causing the pawl to change

between the first and second extreme position. A manual means of changing the position of the pawl is also disclosed.

7. Republic of China Patent Papers, Application Case No. 82207518, Speedy Interchange Structure of the Gear Wheel D-Head of a Ratchet Wheel Wrench. Republic of China Patent Papers, Application Case No. 82207518 (82207518) discloses a pawl which is symmetrical between its left and right, each side being shaped in an arc form. At the top rim, each side is set up with one forward and one backward gear teeth that selectively engage with a gear wheel rotatably mounted in the head of a ratchet wheel wrench head. The pawl is dialed into a left or right position so as to allow the forward or backward gear teeth on both sides to swivel upwards in an arcuate motion, thus producing either a forward or backward directional limiting function. A directional adjustment button transmits pivotal movement to the pawl causing the pawl to move into a left-facing, right-facing or central position. The only embodiment pictured in the 82207518 patent is a socket wrench.

8. U.S. Patent No. 6,044,731, Double-Reversible Ratchet Wrench. U.S. Patent No. 6,044,731 ('731) discloses a double center pawl with two toothed portions mounted within a receiving chamber and selectively meshed with a gear wheel to limit the direction of rotation of a gear wheel. An adjustment member is mounted in the receiving chamber and is manually pivoted to shift the pawl between two positions to control the reversing direction of the ratchet wheel.

9. Republic of China Patent Papers, Application No. 77209984, Directional Adjustment Structure of a Ratchet Wheel Wrench. Republic of China Patent Papers, Application No. 77209984 (77209984) discloses a double center pawl, either end of which having a set of teeth adapted to be brought into position to engage with a gear wheel to effect motion in opposite

directions. The 77209984 patent discloses a reversing mechanism, that transmits pivotal movement to the pawl, causing the pawl to change position. A means by which the user can manually move the reversing mechanism with a thumb is also disclosed. The only embodiment pictured in the 77209984 patent is a socket wrench.

35 U.S.C. §103

The following prior art, in combination, renders one or more of the asserted claims invalid under 35 U.S.C. §103:

1. U.S. Patent No. 3,393,587, Ratchet Wrenches. U.S. Patent No. 3,393,587 ('587) discloses a double center pawl pivotally mounted upon a pin such that one or other of its two set of teeth engage with ratchet teeth of a body bore. The pawl is moved between one of two positions by pivotal movement transmitted by a reversing mechanism containing an operating head provided with a finger grip member. The '587 patent pictures a socket wrench as the only embodiment.

2. U.S. Patent No. 6,216,563, Reversible Ratchet Wheel Positioning Arrangement For A Reversible Ratchet Socket Wrench. U.S. Patent No. 6,216,563 ('563) discloses a double center pawl comprised of two toothed units bilaterally disposed at a front side thereof, each toothed unit comprised of a first toothed portion and a second toothed portion disposed at different angles. The pawl teeth engage with the teeth of a gear wheel and can be shifted in its compartment between two positions to limit the gear wheel's direction of rotation.

3. U.S. Patent No. 4,807,500, Reversing Ratchet Mechanism For Tools. U.S. Patent No. 4,807,500 ('500) discloses a double center pawl having an arcuately shaped piece comprised of first and second teeth that engage with ratchet teeth. The pawl member slides between a right drive position wherein the right pawl teeth engage with the ratchet teeth and a left drive position

wherein the left pawl teeth engage the ratchet teeth. In the right drive position the pawl abuts the left side of a post, while in the left drive position the pawl abuts the right side of the same post. A reversing mechanism provides for the transmittal of pivotal movement from a switch element to the pawl resulting in a change of pawl position. The switch element is mounted on the ratchet handle and may be manually manipulated between first and second drive positions corresponding to a left ratchet drive and a right ratchet drive. The only embodiment pictured in the '500 patent is a socket wrench.

4. U.S. Patent No. 4,147,076, Reversing-Ratchet Socket Wrench. U.S. Patent No, 4,147,076 ('076) discloses a double pawl element mounted within a compartment with teeth at its opposite ends thereof adapted for selective driving engagement with ratchet teeth. The double pawl element is capable of limited pivotal movement between a forward and reverse drive position. A pivotable selector means received in the pawl carrier for pivotal movement about an axis of turn to switch the double pawl between its forward drive and reverse drive engagement with the ratchet teeth. The pivotable selector means comprises a rotary selector button adapted for engagement by the fingers of an operator for pivotal movement between forward or reverse drive conditions. The only embodiment pictured in the '076 patent is a socket wrench.

5. U.S. Patent No. 4,512,218, Control Bar For Ratchet Wrench. U.S. Patent No. 4,512,218 ('218) discloses a double center pawl, either end of which having a set of teeth adapted to be brought selectively into position to engage with ratchet teeth of the head to effect motion in opposite directions. In a preferred embodiment of the invention, the features are incorporated in a ratchet drive of the type which includes a driving ring coupled to the pawl. This driving ring allows for the user of the ratchet drive to conveniently and quickly reverse the

drive mode of the wrench by using one's thumb. The only embodiment pictured in the '218 patent is a socket wrench.

6. U.S. Patent No. 5,495,783, Reversible Ratchet Wrench With Direction Indicia.

U.S. Patent No. 5,495,783 ('783) discloses a double center pawl having continuous teeth.

Formed on the outside of the pawl is a continuous arcuate array of teeth facing and dimensioned for engagement with the ratchet teeth of the head. The array of teeth has a radius less than that of the cylindrical array of ratchet teeth so that only a few of the pawl teeth can engage the ratchet teeth at any one time. Formed on the opposite side of the pawl is a flat rear surface dimensioned for sliding engagement with the axial wall of the pawl recess. The pawl in its forward condition accommodates relative rotational movement in only a first manner and in its reverse configuration accommodates relative rotational movement in only a second manner opposite to the first manner. The pawl changes position by means of a reversing mechanism including a reversing lever manually rotatable by engagement of the user's fingers. The only embodiment pictured in the '783 patent is a socket wrench.

7. U.S. Patent No. 4,777,852, Ratcheting Screwdriver. U.S. Patent No. 4,777,852

('852) discloses a reversing mechanism. The mechanism is generally L-shaped having a lever and an engagement portion. The actuating mechanism can be engaged by the user with his thumb (or other finger) to change the ratcheting direction. Although the preferred embodiment of the invention is a screwdriver the '852 patent discloses that the invention can be used in any kind of driver such as one that can tighten and loosen nuts and bolts.

8. Easco reserves the right to amend or supplement its response based on information revealed during discovery and the Court's claim construction in this case, thus, Easco incorporates the prior art categorized as rendering one or more of the asserted claims

invalid under 35 U.S. C. §102 as potentially rendering one or more of the asserted claims invalid under 35 U.S.C. §103.

The motivation to combine the prior art references rendering one or more of the asserted claims invalid under 35 U.S.C. §103 includes, but is not limited to, references within the prior art itself and the general knowledge of one of skill in the art.

35 U.S.C. §112

The asserted claims of the patent-in-suit are invalid under 35 U.S.C. §112 because Defendant Hu has provided an inadequate written description of the invention and of the manner and process of making and using it and has failed to particularly point out and distinctly claim the invention.

**SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 3**

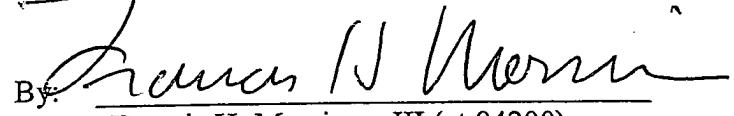
35 U.S.C. §112

To the extent the asserted claims of the patent-in-suit are read to encompass any reversible ratchet tools not having a shaft extending beyond the compartment, those claims are invalid under 35 U.S.C. §112. The facts and information supporting this defense are the terms of the patent-in-suit's specification, and its lack of providing any notice to the public that the claimed invention covers such tools.

Respectfully submitted,

PLAINTIFFS: EASCO HAND TOOLS,  
INC., ARMSTRONG TOOLS, INC.,  
KINGSLEY TOOLS, INC., LEA WAY  
HAND TOOL CORPORATION and  
MATCO TOOLS CORPORATION

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Attorneys For Plaintiffs

**CERTIFICATE OF SERVICE**

THIS IS TO CERTIFY that a copy of the foregoing Plaintiffs' Supplemental Response to Interrogatory No. 3 of Defendant's First Set of Interrogatories was sent this 21st day of April, 2004, to:

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